

March 11, 2015

**VIA ECF**

The Honorable Denise L. Cote  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 1610  
New York, NY 10007-1312

Re: FHFA v Nomura. Am. Holdings, Inc. et al., No. 11 Civ. 6201 (S.D.N.Y.) (DLC)

Dear Judge Cote:

On behalf of Plaintiff Federal Housing Finance Agency (“FHFA”), we write to propose a schedule for the trial in this Action. As suggested by the Court, the schedule is grouped by topic, with each witness appearing only once. In this schedule, an asterisk indicates that a witness is being called by FHFA. The proposed trial schedule is:

**Background**

Rubinstein\*

**Valuation**

Kilpatrick\*

Hedden

Clagett

Morris

Platt

Schall

Kennedy

Isakson

Hausman

**Data Summary**

Cipione\*

Mishol

**Re-underwriting**

Hunter\*

Forester

**Sampling and Extrapolation**

Cowan\*

Barnett

**Diligence**

Spagna\*  
Farrell\*  
Lee\*  
Campo\*  
Greene  
Katz\*  
Kohout\*  
Sabo\*

**Individual Defendants**

Graham\*  
LaRocca\*  
Findlay\*  
Gorin\*  
McCarthy\*

**Location/P&I**

Long\*  
Li\*  
Johansen\*  
Nambiar

**Materiality**

Blum\*  
Palmer\*  
Bates-Moss  
Norris  
Richard  
Schwert\*  
Riddiough

**Damages**

Finkel\*

**Loss Causation**

Vandell  
Barth\*  
Niculescu  
Cook  
Lockhart

In a meet-and-confer session this morning, Defendants informed FHFA that they agree in principle to this schedule, subject to the specific availability of certain witnesses. For example, counsel for RBSSI indicated that Mr. Farrell might have scheduling conflicts in April; FHFA will seek to schedule his appearance to avoid conflicts. Separately, counsel for Nomura stated

that Defendants' valuation expert, Mr. Hedden, is vacationing in Hawaii next week. This presents a different issue, in that it conflicts with the Court's suggestion and FHFA's proposal that Mr. Hedden appear immediately after FHFA's valuation expert, Dr. John Kilpatrick. It is unclear how this conflict could have arisen, in light of the Court's prior guidance that the trial may last only one week, *see* Jan. 15, 2015 Hr'g Tr. at 6, and the reliance by Nomura's counsel on such guidance to press for the availability of fact witnesses from FHFA during the week of March 16. FHFA respectfully requests that Defendants produce Mr. Hedden for cross-examination immediately following the cross-examination of Dr. Kilpatrick. Alternatively, FHFA requests that Defendants present Mr. Hedden for cross-examination no later than 9 a.m. on March 23, 2105.

FHFA notes that the parties continue to discuss issues that could reduce the number of witnesses available at trial. Those issues include:

1. Defendants have withdrawn their objections to certain documents going to place of sale. As a result, FHFA has requested Defendants' consent that Stephen Katz appear by designation. If Defendants agree, Mr. Katz need not appear live.
2. The parties are discussing a potential stipulation to the amounts of principal and interest payments received by the GSEs, and Defendants today will consider FHFA's proffer regarding place of sale. If these issues are resolved, it might not be necessary for Chaka Long, Christi Li, and Kenneth Johansen to testify.
3. Nita Nambiar's affidavit presents testimony on principal and interest payments, residuals, and the GSEs' realized losses. The Court has ruled that evidence regarding residuals is admissible only in potential post-trial proceedings, and Defendants have withdrawn certain inadmissible portions of Ms. Nambiar's affidavit. If the parties' stipulate to principal and interest payments, then it might not be necessary for Ms. Nambiar to appear during the main trial.
4. Whether Defendants will elect to call Daniel Mudd or James Lockhart, a choice they must make by the end of the day.

FHFA respectfully requests that its proposed trial schedule be approved. FHFA will update the Court promptly if any adjustment to the schedule is required.

Respectfully submitted,

/s/ Philippe Z. Selendy  
Philippe Z. Selendy

QUINN EMANUEL URQUHART &  
SULLIVAN, LLP

*Counsel for Plaintiff Federal Housing Finance Agency*

CC: Counsel of record (via ECF)